

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1628 – SB 1709

January 18, 2024

SUMMARY OF BILL: Creates the offenses of assault and aggravated assault committed within a healthcare facility. Effective October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures – \$1,700 Incarceration

Increase Local Expenditures – \$119,200/FY24-25 and Subsequent Years*

Assumptions:

- For purposes of this analysis, it is assumed the proposed legislation will apply to offenses committed on or after July 1, 2024.

New Class A Misdemeanor Assault:

- The proposed legislation creates a Class A misdemeanor offense of assault within a healthcare facility if a person:
 - Knowingly causes bodily injury to another within a healthcare facility; or
 - Knowingly causes physical contact with another within a healthcare facility and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of another.
- The proposed legislation further requires a mandatory minimum sentence of 30 days incarceration and a mandatory fine of \$5,000 for assault committed within a healthcare facility.
- Pursuant to Tenn. Code Ann. § 39-13-101(b)(1)(A), assault by intentionally, knowingly or recklessly causing bodily injury to another is a Class A misdemeanor offense, punishable by incarceration and a fine not to exceed \$15,000.
- Pursuant to Tenn. Code Ann. § 39-13-101(b)(1)(C), assault by intentionally or knowingly causing extremely offensive or provocative physical contact with another is a Class B misdemeanor offense.
- Based on data obtained through the Tennessee Bureau of Investigation (TBI) Tennessee Incident Based Reporting System (TIBRS), over the last five years there has been an average of 76,626 incidents of simple assault per year. Of those 76,626 incidents, 919 or approximately 1.2 percent (919 / 76,626) took place at a hospital or doctor's office.

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- Based on information provided by the Administrative Office of the Courts, there has been an average of 936.2 Class A misdemeanor convictions of assault and 95.6 Class B misdemeanor convictions of assault in each of the last five years.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 9,362 convictions ($936.2 / 10.0\%$) per year for Class A misdemeanor assault and 956 convictions ($95.6 / 10.0\%$) per year for Class B misdemeanor assault.
- This analysis assumes:
 - 112.3 ($9,362 \times 1.2\%$) Class A misdemeanor convictions for assault occurred at a hospital or doctor's office; and
 - 11.5 ($956 \times 1.2\%$) Class B misdemeanor convictions for assault occurred at a hospital or doctor's office.
- It is assumed that an individual convicted of a Class A misdemeanor offense spends an average of 15 days in a local jail, and an individual convicted of a Class B misdemeanor offense spends an average of 1 days in local jail.
- The proposed legislation will result in:
 - 112.3 convictions for Class A misdemeanor assault annually serving an additional 15 days (30-15) in local jail; and
 - 11.5 convictions for Class B misdemeanor assault being enhanced to a Class A misdemeanor and annually serving an additional 29 days ($30 - 1$) in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$59.07.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$119,203 [$(112.3 \text{ convictions} \times \$59.07 \times 15 \text{ days}) + (11.5 \text{ convictions} \times \$59.07 \times 29 \text{ days})$] in FY24-25 and subsequent years.

Aggravated Assault within a healthcare facility:

- The proposed legislation creates a Class C felony offense of aggravated assault if a person knowingly commits an assault within a healthcare facility, and the assault:
 - Results in serious bodily injury to the victim;
 - Results in the death of the victim;
 - Involves the use or display of a deadly weapon; or
 - Involves strangulation or attempted strangulation.
- The proposed legislation further requires a mandatory minimum sentence of 90 days incarceration and a mandatory fine of \$15,000 for aggravated assault committed within a healthcare facility.
- This analysis assumes individuals charged with aggravated assault committed within a healthcare facility pursuant to this legislation would be charged with a Class C felony offense of aggravated assault pursuant to Tenn. Code Ann. § 39-13-102 under current law.
- Pursuant to Tenn. Code Ann. § 40-35-501(cc), as amended by Public Chapter 988 of 2022, a person convicted of aggravated assault resulting in serious bodily injury, death of another, involved the use or display of a deadly weapon or involved strangulation or attempted strangulation on or after July 1, 2022 is required to serve 100 percent of the

sentence imposed, provided that earned credits may reduce the sentence imposed by up to 15 percent.

- The average sentence for a Class C felony offense of aggravated assault is 4.77 years. Therefore, it is assumed that a person convicted of aggravated assault under current law would serve 4.05 years ($4.77 \times 85\%$). Such individuals are already serving more than the mandatory 90 days required by the proposed legislation and will not be impacted.
- Based on data obtained through TIBRS, over the last five years there has been an average of 35,502 incidents of aggravated assault per year. Of those 35,502 incidents, approximately 158 or approximately 0.44% ($158 / 35,502$) took place at a hospital or doctor's office.
- Based on information provided by the Department of Correction, there has been an average of 379 convictions for aggravated assault in each of the last 10 years where the offender received an average of 70 days pretrial jail credit before being sentenced to community supervision.
- Of those 379 convictions, it is assumed 0.44 percent or 1.66 ($379 \times 0.44\%$) were for offenses committed within a healthcare facility.
- This analysis assumes individuals convicted of a Class C felony offense of aggravated assault within a healthcare facility will serve 20 additional days ($90 - 70$) incarcerated under the proposed legislation.
- Since offenders are housed in local jail while awaiting trial, it is reasonably assumed these individuals will remain in a local facility to serve the 20 additional days, as opposed to being transported to a state facility.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.95 percent per year (from 2020 to 2023).
- The weighted average operational costs per day are estimated to be \$54.04 for inmates housed at state facilities and \$49.88 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 1,700	FY24-25
\$ 1,700	FY25-26
\$ 1,700	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs relating to aggravated assault on a first responder or healthcare provider will be \$1,700.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is minimal due to defendants often not being able to pay them; therefore, any increase in local revenue from fines is estimated to be not significant.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of

state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.

- All calculations used in completion of this fiscal note are available upon request.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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